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The following Bills together with the Statements of Objects and Reasons and the Financial Memoranda attached to them, are published, as ordered by the Speaker under Rule 73 of the Rules of Procedure and Conduct of Business in the Assembly.

(1) The Kerala Habitual Offenders Bill, 1960.
(L. A. Bill No. 8 of 1960).

(2) The Kerala Borstal Schools Bill, 1960.
(L. A. Bill No. 9 of 1960).

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Secretary,
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Legislature Secretariat,
Trivandrum.

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L. A. Bill No. 8 of 1960.

THE KERALA HABITUAL OFFENDERS BILL, 1960.

A

BILL

to provide for the treatment and training of habitual offenders.

Preamble.—WHEREAS it is expedient to make provision for the treatment and training of habitual offenders;

BE it enacted in the Eleventh Year of the Republic of India as follows: —

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Habitual Offenders Act, 1960.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) 'Code' means the Code of Criminal Procedure, 1898;

(b) 'Corrective settlement' means any place established, approved or certified as a corrective settlement under section 13;

(c) 'District Magistrate' means the Collector of the district;

(d) 'Habitual offender' means a person who, during any continuous period of five years, whether before or after the commencement of this Act or partly before and partly after such commencement, has been sentenced on conviction on not less than three occasions since he attained the age of eighteen years to a substantive term of imprisonment for any one or more of the scheduled offences committed on different occasions and not so connected together as to form parts of the same

transaction, such sentence not having been reversed in appeal or on revision:

Provided that in computing the continuous period of five years referred to above any period spent in jail either under a sentence of imprisonment or under detention shall not be taken into account;

(e) 'prescribed' means prescribed by rules made under this Act;

(f) 'registered offender' means a habitual offender registered or re-registered under this Act;

(g) 'scheduled offence' means an offence specified in the Schedule or an offence analogous thereto;

(h) 'State' means the State of Kerala.

Chapter II

REGISTRATION OF HABITUAL OFFENDERS AND RESTRICTION OF THEIR MOVEMENTS

3. *Power of Government to direct registration of habitual offenders.*—The Government may direct the District Magistrate to make a register of habitual offenders within his district by entering therein the names and other prescribed particulars of such offenders.

4. *Procedure for preparing register of habitual offenders.*—For the purpose of carrying out the direction given under section 3, the District Magistrate or any officer appointed by him in this behalf shall, by notice in the prescribed form to be served in the prescribed manner, call upon every habitual offender in the District—

(a) to appear before him at a time and place therein specified in the notice;

(b) to furnish such information as may be necessary to enable him to enter the name and other prescribed particulars of the habitual offender in the register; and

(c) to allow the finger and palm impressions, foot-prints and photographs of the habitual offender to be taken:

Provided that the name and other prescribed particulars of a habitual offender shall not be entered in the register unless he has been afforded reasonable opportunity of showing cause why such entry should not be made.

5. *Charge of register and alterations therein.*—(1) The register shall be placed in the custody of the Superintendent of Police of the district concerned, who shall, from time to time, report to the District Magistrate any alterations which ought in his opinion to be made therein.

(2) After the register has been placed in the custody of the Superintendent of Police no fresh entry shall be made in the register, nor shall any entry be cancelled, except by, or under an order in writing of, the District Magistrate.

6. *Power to take finger and plam impressions, foot-prints and photograph at any time.*—The District Magistrate or any officer appointed by him in this behalf may at any time order the finger and palm impressions, foot-prints and photographs of any registered offender to be taken.

7. *Registered offenders to notify change of residence and to report themselves.*—(1) Every registered offender shall notify to such authority and in such manner as may be prescribed any change or intended change of his ordinary residence :

Provided that where such offender changes or intends to change his ordinary residence to another district (whether within the State or not) he shall notify the change or intended change to the District Magistrate.

(2) The District Magistrate may, by order in writing direct that any registered offender shall—

(a) report himself once in each month or, where the District Magistrate for reasons specified in the order so directs, more frequently, to such authority and in such manner as may be specified in the order ; and

(b) notify any absence or intended absence from his ordinary residence to the aforesaid authority :

Provided that the District Magistrate may exempt any such offender from notifying any absence or intended absence from his ordinary residence for such period and under such conditions as to him may appear reasonable.

8. *Procedure by District Magistrate on change of residence of habitual offender to another district.*—(1) Where any registered offender changes his ordinary residence to another district within the State, the District Magistrate of the district in which the offender is registered shall inform the District Magistrate of the other district about such change and at the same time furnish him with the name and other particulars of the registered offender.]

(2) On the receipt of such information the District Magistrate of the other district shall enter in his register the name and other particulars of the registered offender furnished by him and inform the District Magistrate of the first district about such registration and thereupon such District Magistrate shall cancel from his register the entry relating to that offender :

Provided that where a registered offender changes his ordinary residence to another district outside the State, the District Magistrate of the first district shall furnish the District Magistrate of the other district with the name and other particulars of the registered offender, and make a request to that District

Magistrate that he may be informed of the steps, if any, which may have been taken in relation to the offender under any law relating to the treatment and training of habitual offenders for the time being in force in that other district; and upon the receipt of such information the District Magistrate of the first district shall cancel from his register the entry relating to that offender.

(3) Upon the entry of the name and other particulars of a registered offender in the register under sub-section (2), the provisions of this Act and the rules made thereunder shall apply to him as if he has been registered, in pursuance of a direction given under section 3, in the register of the district to which he has changed his ordinary residence.

9. *Duration of registration and re-registration of habitual offenders.*—(1) The registration of a habitual offender under this Act shall, unless earlier cancelled, cease to be in force on the expiry of five years from the date of such registration, and on such cancellation or expiry the habitual offender shall cease to be a registered offender.

(2) Notwithstanding the cancellation, or expiry of duration of registration, a habitual offender may be re-registered in accordance with the provisions of this Act relating to registration as often as he is convicted of one or more of the scheduled offences at any time after such cancellation or expiry, and the re-registration shall, unless earlier cancelled, cease to be in force on the expiry of five years from the date of such re-registration.

(3) Notwithstanding anything contained in sub-sections (1) and (2), where a registered offender is, during the period of registration or re-registration, convicted of one or more of the scheduled offences and sentenced to a substantive term of imprisonment, the duration of registration or re-registration shall be extended for a period of five years from the date of his release from such imprisonment.

10. *Right to make representations against registration, etc.*—(1) Any person deeming himself aggrieved by the registration under section 4, or re-registration or extension of the duration of registration or re-registration, as the case may be, under section 9 or by an order under sub-section (2) of section 7, may within the prescribed period make a representation to the Government against such registration, re-registration, extension or order.

(2) The Government shall, after considering the representation and giving the aggrieved person an opportunity of being heard, either confirm or cancel the registration, re-registration, extension or order, as the case may be, and shall, in the case of confirmation, record a brief statement of the reasons therefor.

11. *Power to restrict movements of registered offenders.*—(1) If in the opinion of the Government or any officer appointed by the Government in this behalf it is necessary or expedient in the interests of the general public so to do, the Government or such officer may by order direct that any registered offender shall be restricted in his movements to such area and for such period not exceeding three years as may be specified in the order.

(2) Before making any such order the Government or such officer shall take into consideration the following matters, namely :—

(a) the nature of the offences of which the registered offender has been convicted and the circumstances in which the offences were committed ;

(b) whether the registered offender follows any lawful occupation and whether such occupation is conducive to an honest and settled way of life and is not merely a pretence for the purpose of facilitating commission of offences ;

(c) the suitability of the area to which his movements are to be restricted ; and

(d) the manner in which the registered offender may earn his living within the restriction area, and the adequacy of arrangements which are, or are likely to be, available therefor.

(3) A copy of the order shall be served on the registered offender in the prescribed manner.

12. *Power to cancel or alter restrictions of movements.*—The Government or the officer appointed under Section 11 may, by order, cancel any order made under Section 11 or alter any area specified in an order under that section :

Provided that before making such order the Government or such officer shall consider the matters referred to in sub-section (2) of Section 11 in so far as they may be applicable.

CHAPTER III

CORRECTIVE TRAINING OF HABITUAL OFFENDERS

13. *Corrective settlements.*—(1) The Government may, by notification in the Gazette, establish and maintain in the State as many corrective settlements as they think fit for the purpose of placing therein such habitual offenders as are directed to receive corrective training under this Act.

(2) The Government may also approve or certify any privately-managed institution (whether known as settlement or otherwise) or any institution run by the State Social Welfare Advisory Board as a corrective settlement for the purposes of this Act.

14. *Power to direct habitual offenders to receive corrective training.*—(1) Where the Government are satisfied from the report of the District Magistrate or otherwise that it is expedient with a view to the reformation of a registered offender and the prevention of crime that the registered offender should receive training of a corrective character for a substantial time, the Government may, by order in writing, direct that the registered offender shall receive training of a corrective character for such period not exceeding the duration of his registration or re-registration as may be specified in the order.

(2) Where a habitual offender, who is not more than forty years of age,—

(a) is convicted of any scheduled offence, or

(b) is required in pursuance of Section 110 of the Code to execute a bond for his good behaviour, and the court or the Magistrate is satisfied from the evidence in the case and other materials on record that it is expedient with a view to his reformation and prevention of crime that he should receive training of a corrective character for a substantial period, the court or the Magistrate may, in lieu of sentencing him for such offence or, as the case may be, requiring him to execute such bond, direct that he shall receive corrective training for such term of not less than two and not more than five years as the court or the Magistrate may determine.

(3) Before giving any direction under sub-section (1) or sub-section (2) the Government or the court or the Magistrate, as the case may be, shall—

(a) take into consideration the physical and mental condition of the offender and his sutability for receiving corrective training in a corrective settlement; and

(b) give a reasonable opportunity to the offender to show cause why such direction should not be given.

(4) A habitual offender, in respect of whom a direction to receive corrective training has been made, shall be placed in a corrective settlement for the term of his training and while in such settlement shall be treated in such manner as may be prescribed.

15. *Power to transfer from corrective settlement.*—The Government or any officer authorised by them in this behalf may at any time by order in writing direct any habitual offender who may be in a corrective settlement to be transferred to another corrective settlement.

CHAPTER IV

PENALTIES AND PROCEDURE

16. *Penalty for failure to comply with certain provisions of the Act.*—A habitual offender who without lawful excuse, the burden of proving which shall lie upon him,—

(a) fails to appear in compliance with a notice issued under Section 4; or

(b) intentionally omits to furnish any information required under that section or furnishes as true any information which he knows, or has reason to believe, to be false or does not believe to be true; or

(c) refuses to allow his finger and palm impressions, foot-prints and photograph to be taken by any person acting under an order passed under section 6; or

(d) fails to comply with the provisions of sub-section (1) of section 7 or with an order of the District Magistrate under sub-section (2) of that section or with an order under section 11;

may be arrested without warrant and shall be punishable,—

(i) on first conviction with imprisonment for a term which may extend to six months or with fine which may extend to two hundred rupees or with both; and

(ii) on a second or subsequent conviction, with imprisonment for a term which may extend to one year or with fine which may extend to five hundred rupees or with both:

Provided that if the court, after taking into consideration the offender's age and physical and mental condition and his suitability for receiving training of a corrective character in a corrective settlement, is satisfied that it is expedient with a view to his reformation and the prevention of crime that he should receive training of a corrective character for a substantial period, the court may, in lieu of sentencing the offender to any punishment under clause (d) direct, after giving him an opportunity of showing cause, that he shall receive corrective training in a corrective settlement for such term not exceeding three years as it may determine.

17. *Arrest of persons found outside restriction area or corrective settlements.*—If any person—

(a) is found outside the area to which his movements have been restricted, in contravention of the conditions under which he is permitted to leave such area, or

(b) escapes from any corrective settlement in which he is placed,

he may be arrested without warrant by a police officer, or village headman and taken before a Magistrate who, on proof of the facts, may order him to be removed to such area or to such corrective settlement, there to be dealt with in accordance with this Act and the rules made thereunder.

Chapter V

MISCELLANEOUS

18. *Bar of jurisdiction of Courts.*—No court shall question the validity of any direction or order issued or made under this Act.

19. *Bar of legal proceedings.*—No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

20. *Power to delegate.*—The Government may, by notification in the Gazette, direct that any power exercisable by them under this Act, except the power under section 21, may also be exercised subject to such conditions, if any, as may be specified in the notification, by such officer not below the rank of a District Magistrate as may be specified therein.

21. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the form of notice under section 4 and the manner in which such notice may be served ;

(b) the form of the register of habitual offenders and the particulars to be entered therein ;

(c) the authority to whom and the manner in which any change or intended change of ordinary residence shall be notified under subsection (1) of section 7 ;

(d) the nature of restrictions to be observed by registered offenders whose movements have been restricted ;

(e) the grant of certificate of identity to registered offenders and inspection of such certificate ;

(f) the conditions under which the offenders may be permitted to leave the area to which their movements have been restricted or the corrective settlements in which they have been placed ;

(g) the terms upon which offenders may be discharged from corrective settlements ;

(h) the working, management, control and supervision of corrective settlements, including the discipline and conduct of persons placed therein ;

(i) the conditions for, and the manner of, approving or certifying privately managed settlements ;

(j) the appointment of non-official visitors for corrective settlements ;

(k) the conditions and circumstances under which members of the family of a habitual offender may be permitted to stay with him in a corrective settlement ;

(l) the periodical review of the cases of all persons whose movements have been restricted or who are placed in corrective settlements under this Act ;

(m) any other matter which is to be or may be prescribed.

(3) In making rules under this Act the Government may provide that a contravention of any of the rules shall be punishable with fine which may extend to one hundred rupees.

(4) All rules made under this Act shall, as soon as may be after they are made, be laid before the Legislative Assembly for not less than seven days, and shall be subject to such modifications, whether by way of repeal or amendment, as the Assembly may make during the Session or Sessions in which they are so laid or the Session immediately following.

22. *Repeal.*—The Madras Restriction of Habitual Offenders Act, 1948 (Madras Act VI of 1948), as in force in the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956, is hereby repealed.

THE SCHEDULE

[*See Section 2 (g)*]

I

Offences under the Indian Penal Code.

CHAPTER XII

Section.

231	Counterfeiting coin.
232	Counterfeiting Indian coin.
233	Making or selling instrument for counterfeiting coin.
234	Making or selling instrument for counterfeiting Indian coin.
235	Possession of instrument or material for the purpose of using the same for counterfeiting coin.
239	Delivery of coin possessed with knowledge that it is counterfeit.
240	Delivery of Indian coin, possessed with knowledge that it is counterfeit.
242	Possession of counterfeit coin by person who knew it to be counterfeit when he became possessed thereof.
243	Possession of Indian coin by person who knew it to be counterfeit when he became possessed thereof.

CHAPTER XVI

304	Culpable homicide not amounting to murder.
307	Attempt to murder.
308	Attempt to commit culpable homicide.
324	Voluntarily causing hurt by dangerous weapons or means.

Section.

325 Voluntarily causing grievous hurt.

326 Voluntarily causing grievous hurt by dangerous weapons or means.

327 Voluntarily causing hurt to extort property, or to constrain to an illegal act.

328 Causing hurt by means of poison, etc., with intent to commit an offence.

329 Voluntarily causing grievous hurt to extort property, or to constrain to an illegal act.

347 Wrongful confinement to extort property, or constrain to illegal act.

365 Kidnapping or abducting with intent secretly and wrongfully to confine person.

366 A Procuration of minor girl.

366 B Importation of girl from foreign country.

368 Wrongfully concealing or keeping in confinement, kidnapped or abducted person.

369 Kidnapping or abducting child under ten years with intent to steal from its person.

CHAPTER XVII

379 Theft.

380 Theft in dwelling house, etc.

382 Theft after preparation made for causing death, hurt or restraint in order to the committing of the theft.

384 Extortion.

385 Putting person in fear of injury in order to commit extortion.

386 Extortion by putting a person in fear of death or grievous hurt.

387 Putting person in fear of death or of grievous hurt in order to commit extortion.

392 Robbery.

393 Attempt to commit robbery.

394 Voluntarily causing hurt in committing robbery.

395 Dacoity.

397 Robbery or dacoity with attempt to cause death or grievous hurt.

398 Attempt to commit robbery or dacoity when armed with deadly weapon.

399 Making preparation to commit dacoity.

400 Belonging to a gang of dacoits.

Section.

401 Belonging to a gang of thieves.

402 Assembling for purpose of committing dacoity.

411 Dishonestly receiving stolen property.

412 Dishonestly receiving property stolen in the commission of dacoity.

414 Assisting in concealment of stolen property..

420 Cheating and dishonestly inducing delivery of property.

453 Lurking house-trespass or house-breaking.

454 Lurking house-trespass or house-breaking in order to commit offence punishable with imprisonment.

455 Lurking house-trespass or house-breaking after preparation for hurt, assault or wrongful restraint.

456 Lurking house-trespass or house-breaking by night.

457 Lurking house-trespass or house-breaking by night in order to commit offence punishable with imprisonment.

458 Lurking house-trespass or house-breaking by night after preparation for hurt, assault, or wrongful restraint.

459 Grievous hurt caused whilst committing lurking house-trespass or house-breaking.

460 All persons jointly concerned in lurking house-trespass or house-breaking by night punishable where death or grievous hurt caused by one of them.

II

Abetment of, or attempt to commit any of the offences mentioned in I above.

III

Offence under the Suppression of Immoral Traffic in Women and Girls Act. 1956.

4. Living on the earnings of prostitution.

STATEMENT OF OBJECTS AND REASONS.

The Madras Restriction of Habitual Offenders Act, 1948, which imposes certain restrictions on habitual offenders is in force in the Malabar area of the State. There is no corresponding law in force in the remaining area of the State. It is considered necessary to have a uniform law on the subject applicable throughout the State. The Bill is designed to achieve the above object.

FINANCIAL MEMORANDUM.

Clause 13 of the Bill provides for the establishment of corrective settlements and this will involve expenditure from the Consolidated Fund of the State. But that provision is not for immediate application and it is only a provision for future application if necessary. No expenditure is therefore contemplated in the near future.

P. T. CHACKO.

L. A. Bill No. 9 of 1960

THE KERALA BORSTAL SCHOOLS BILL, 1960.

A

BILL

to make provision for the establishment and regulation of borstal schools for the detention and training of adolescent offenders.

Preamble.—WHEREAS it is expedient to make provision for the establishment and regulation of borstal schools in the State of Kerala for the detention and training of adolescent offenders therein;

BE it enacted in the Eleventh Year of the Republic of India as follows:—

PART I

PRELIMINARY

1. *Short title and application.*—(1) This Act may be called the Kerala Borstal Schools Act, 1960.

(2) The Government may, by notification in the Gazette, from time to time, apply the whole or any of the provisions of this Act to adolescent offenders or any class thereof in any local area in the State, from such date as may be specified in the notification and may cancel or modify such uotification.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(1) "adolescent offender" means any person who has been convicted of any offence punishable with imprisonment or who having been ordered to give security under section 118 of the Code of Criminal Procedure, 1898, (Central Act 5 of 1898) has failed to do so and who at the time of such conviction or failure to give security is not less than 16 nor more than 21 years of age;

(2) "borstal school" means a corrective institution wherein adolescent offenders, while detained in pursuance of this Act, are given such industrial training and other instruction and are subjected to such disciplinary and moral influences as will conduce to their reformation and the prevention of crime;

(3) "Inspector-General" means the Inspector General of Prisons and includes any officer appointed by the Government to perform all or any of the duties imposed by this Act on the Inspector General;

(4) "Probation officer" means an officer appointed to be a probation officer or recognised as such under section 13 of the Probation of Offenders Act, 1958 (Central Act 20 of 1958);

(5) "State" means the State of Kerala.

3. *Establishment of borstal schools.*—(1) For the purposes of this Act, the Government may establish one or more borstal schools.

(2) For every borstal school a visiting committee shall be appointed by the Government.

4. *Application of the Prisons Acts and the Prisoners Acts.*—Subject to any alterations, adaptations and exceptions made by this Act and the rules framed under it, the Prisons Act, 1894 (Central Act 9 of 1894) and the Prisoners Act, 1900 (Central Act 3 of 1900) and the rules issued thereunder, or, as the case may be the Travancore-Cochin Prisons Act, 1950 (Act XVIII of 1950) and the Travancore-Cochin Prisoners Act, 1950 (Act XVII of 1950) and the rules issued thereunder, shall apply in the case of every borstal school established under this Act as if it were a prison and the inmates prisoners.

5. *Courts empowered under this Act.*—The powers conferred on courts by this Act shall be exercised only by,—

(a) the High Court;

(b) a Court of Session;

(c) a District Magistrate;

(d) a Subdivisional Magistrate; and

(e) any Magistrate of the first class or any bench of Magistrates constituted under section 15 of the Code of Criminal Procedure, 1898, (Central Act 5 of 1898) invested with the powers of a Magistrate of the First Class specially empowered by the Government in that behalf;

and may be exercised by such courts whether the case comes before them originally, on appeal or in revision.

6. *Procedure when Magistrate is not empowered to pass sentence under this Act.*—(1) When any Magistrate not empowered to pass sentence under this Act is of opinion that an adolescent offender is a proper person to be detained in a borstal school, he may, without passing sentence, record such opinion and submit his proceedings and forward the adolescent offender to the District Magistrate or Subdivisional Magistrate to whom he is subordinate.

(2) The Magistrate to whom the proceedings are so submitted may make such further inquiry, if any, as he may think fit and may pass such sentence or order dealing with the case as he might have passed if such adolescent offender had originally been tried by him.

PART II

COMMITTAL TO BORSTAL SCHOOLS

7. *Power of court to pass sentence of detention in borstal school.*—Where it appears to a court having jurisdiction under this Act that an adolescent offender should, by reason of his criminal habits or tendencies, or association with persons of bad character, be subject to detention in a borstal school, it shall be lawful for the Court, in lieu of passing a sentence of imprisonment, to pass a sentence of detention in a borstal school for a term which shall not be less than two years and shall not exceed five years, but in no case extending beyond the date on which the adolescent offender will, in the opinion of the Court, attain the age of twenty-three years ;

Provided that, before passing such sentence, the court shall consider any report or representation which may be made to it (including any report or representation made by the probation officer of the area in which the offender permanently resided at the time when he committed the offence) as to the suitability of the case for treatment in a borstal school and shall be satisfied that the character, state of health and mental condition of the offender and the other circumstances of the case are such that the offender is likely to profit by such instruction and discipline as aforesaid.

8. *Preliminary inquiry and finding as to age of adolescent offender.*—(1) Before passing a sentence under section 7 the court shall inquire into the age of the offender and, after taking such evidence, if any, as may be deemed necessary, shall record a finding thereon stating his age as nearly as may be.

(2) A similar inquiry shall be made and finding recorded by every Magistrate not empowered to pass sentence under section 7 before submitting his proceedings and forwarding an adolescent offender to the District or Sub-divisional Magistrate as required by sub-section (1) of section 6.

9. *Limitation on powers conferred by section 7.*—Any person detained in a borstal school for failure to furnish security when ordered to do so under section 118 of the Code of Criminal Procedure, 1898, (Central Act 5 of 1898) shall be released on furnishing such security or on the passing of an order under sub-section (1) of section 124 of the said Code.

10. *Power of Inspector General to transfer Prisoners to borstal school.*—The Inspector General may, subject to rules made by the Government, if satisfied that any adolescent offender undergoing imprisonment in consequence of a sentence passed either before or after the commencement of this Act might with advantage be detained in a borstal school, direct that such person shall be transferred from prison to a borstal school, there to serve the whole or any part of the unexpired portion of his sentence. The provisions of this Act shall thereupon apply to such person as if he had been originally sentenced to detention in a borstal school.

11. *Government to determine the borstal school to which adolescent offender shall be sent.*—Every adolescent offender directed by a court to be sent to a borstal school shall be sent to such borstal school as the Government may, by general or special order, appoint for the reception of adolescent offenders so dealt with by such court ;

Provided that, if accommodation in a borstal school is not immediately available for such adolescent offender, he may be detained in a special ward or such other suitable part of a prison as the Government may direct, until he can be sent to a borstal school. The period of detention so undergone shall be treated as detention in a borstal school.

12. *Removal from one School to another.*—The Inspector General may at any time order an inmate to be removed from one borstal school to another, provided that the whole period of his detention in a borstal school shall not be increased by such removal.

13. *Reception of offenders from and, transfer of offenders to other States in India.*—(1) The Government may, by general or special order notified in the Gazette, direct that any specified borstal school in the State shall be available for the reception of adolescent offenders in respect of whom a sentence of detention in a borstal school or other school of a like nature has been passed by any court or Magistrate in any other State in India ; and thereupon, provision may be made for the removal of the adolescent offenders concerned accordingly ;

Provided that no such order shall be made without the consent of the Government of the other State concerned.

(2) The Government may direct any inmate of a borstal school in the State to be transferred to any borstal school or other school of a like nature in any other State in India:

Provided that no such transfer shall be made without the consent of the Government of the other State concerned.

(3) The Government may consent to the transfer to a borstal school in the State, of a person detained in any borstal school or other school of a like nature in any other State in India.

(4) The provisions of this Act shall apply to any person who is removed or transferred to a borstal school in the State in pursuance of sub-section (1) or sub-section (3), as if he had been originally sentenced to detention in a borstal school in the State.

14. *Transfer of incorrigibles, etc., to prisons.*—Where a person detained in a borstal school is reported to the Government by the Superintendent of such school to be incorrigible or to be exercising a bad influence on the other inmates of the school, the Government may commute the unexpired portion of the

term of detention to such term of imprisonment of either description as the Government may determine, but in no case exceeding—

(a) such unexpired portion, or

(b) the maximum period of imprisonment fixed for the offence or the failure to give security, as the case may be, or

(c) the maximum period of imprisonment which the court that tried him had authority to award under the Code of Criminal Procedure, 1898 (Central Act 5 of 1898) whichever is shortest.

PART III

RELEASE ON LICENCE

15. *Power to release on licence.*—(1) Subject to any general or special directions of the Government, the Inspector General, on the recommendation of the visiting committee, may, at any time after the expiration of six months from the commencement of the term of detention, if satisfied that there is a reasonable probability that the inmate will abstain from crime and lead a useful and industrious life, by licence permit him to be discharged from the borstal school on condition that he be placed under the supervision or authority of any Government officer, or secular institution, or person, or religious society professing the same religion as the inmate, named in the licence, who may be willing to take charge of him.

(2) A licence under this section shall be in force until the term for which the offender was sentenced to detention has expired, unless sooner revoked or forfeited.

16. *Form of licence.*—Every licence granted under section 15 shall be in such form and shall contain such conditions as the Government may by rules direct.

17. *Revocation of licence.*—Subject to any general or special directions of the Government, a licence granted under section 15 may be revoked at any time by the Inspector General and, where a licence has been revoked, the person to whom the licence related shall return to the borstal school.

18. *Escape and failure of licence.*—If any inmate escapes from a borstal school or if any inmate absent on licence from a borstal school removes himself from the supervision of the society or person in whose charge he is placed or fails, after the revocation of the licence, to return from such supervision to the borstal school, a police officer not below the rank of a Sub-Inspector of Police may, without orders from a Magistrate and without warrant, arrest him and take him back to the borstal school and his licence shall be forfeited with effect from the date of his escape or failure to return, as the case may be.

19. *Absence under licence to be counted towards period of detention.*—The time during which a person is absent from a borstal school under a licence shall be treated as part of the term of his detention in the school, provided that where that person has failed to return to the school on the licence being forfeited or revoked, the time which elapses after his failure so to return shall be excluded in computing the term during which he is to be detained in the school.

PART IV

CONTROL AND MANAGEMENT OF BORSTAL SCHOOLS

20. *Management of Borstal Schools.*—Subject to the orders of the Inspector General and subject also to the rules made by the Government, the control and management of every borstal school shall vest in a Superintendent appointed by the Government.

21. *Constitution, powers and duties of visiting committees.*—(1) (a) Every visiting committee appointed under sub-section (2) of section 3 shall consist of the Sessions Judge, the District Magistrate and the District Educational Officer of the district in which the school is situate and four non-official members appointed by the Government.

(b) The non-official members shall hold office for a period of two years but shall be eligible for re-appointment on the expiry of that period.

(2) It shall be the duty of the visiting committee and its members—

(a) to visit the school either individually or collectively on such occasions as may be fixed by the rules made under this Act in that behalf for the purpose of ensuring that the provisions of this Act are duly given effect to;

(b) to make such suggestions for the improvement of the training therein as are considered necessary and to report to the Government or to the Inspector General from time to time any matter which, in their opinion, should receive attention and annually on the progress of the school;

(c) to interview the inmates immediately after their arrival and to make suggestions, if any, as to the special training which each should receive;

(d) to consider cases of release on licence under sub-section (1) of section 15 placed before them by the Superintendent; and

(e) to consider such action as may be necessary in regard to the inmates whose term of detention is about to expire.

(3) Subject to such rules as may be made in that behalf by the Government every member of the visiting committee shall be entitled to call for information from the Superintendent, to examine the records of the school and to take such other action as he deems necessary for the due discharge of his duties.

22. *Classification of inmates.*—(1) The inmates of a borstal school shall be divided by the Superintendent according to their industry and good conduct into four grades, namely:—

(i) the penal grade,

(ii) the ordinary grade.

(iii) the star grade,

(iv) the special star grade.

(2) The privileges of each grade shall be higher than those of the grade preceding, if any.

(3) Every inmate shall, on reception in a borstal school, be placed in the ordinary grade.

(4) The Superintendent may promote or reduce any inmate from one grade to another in accordance with the provisions of sub-section (5), the rules made under this Act and the general instructions of the visiting committee.

(5) Promotions and reductions shall be regulated by close personal observation of the inmates and shall depend specially on their general behaviour, amenability to discipline and attention to instructions both literary and industrial.

23. *Punishment for offences.*—(1) The punishments which may be inflicted on an inmate of a borstal school for offences specified in the Prisons Act, 1894 (Central Act 9 of 1894) or the Travancore-Cochin Prisons Act, 1950 (Act XVIII of 1950), as the case may be, and the rules made thereunder, shall be in the following forms and no other:—

(i) formal warning,

(ii) extra drill,

(iii) deprivation of any of the privileges of the grade

(iv) reduction in grade,

(v) cuts on the hand by a rattan not exceeding six on each hand.

(2) No punishment shall be awarded to any inmate by any official of the school except the Superintendent or in his absence the official exercising his functions.

24. *Limitation of hours of work.*—No inmate of a borstal school shall be made to work for more than eight hours a day:

Provided that extra drill awarded as a punishment under sub-section (1) of section 23 shall not be deemed, for the purposes of this section to be work.

Part V

APPEAL AND REVISION

25. *Appeal and revision.*—For purposes of appeal and revision under the code of Criminal Procedure, 1898, (Central Act 5 of 1898) a sentence of detention under section 7 of this Act shall be deemed to be a sentence of imprisonment for the same period.

Any person affected by an order of the Inspector General under this Act may appeal to the Government whose orders shall be final.

Part VI

MISCELLANEOUS

26. *Minimum age-limit of adolescents in areas to which the Children Acts have not been extended.*—In areas in which the provisions of the Madras Children Act, 1920 (Act IV of 1920), or the Cochin Children Act, XXXVI of 1111 or the Travancore Children Act, 1120 (Act XXXII of 1120), are not in force, the figure 16 appearing in section 2 (1) of this Act shall be read as 15.

27. *Power of Government to discharge inmates.*—The Government may at any time order the discharge of an inmate of any borstal school either absolutely or subject to such conditions as they may think fit.

28. *Removal of disqualification attaching to convictions for offences.*—The conviction of an adolescent offender shall not be regarded as a conviction for the purposes of any disqualification attaching to a conviction for any offence.

29. *Rules.*—(1) The Government may, after previous publication, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power such rules may provide for—

(a) the appointment, powers and duties of officials in borstal schools ;

(b) the treatment, maintenance, education, industrial training and control of the inmates of borstal schools ;

(c) the grant of permission to the inmates of borstal schools to absent themselves for short periods ;

(d) visits to and communications with the inmates of borstal schools ;

(e) the temporary detention of adolescent offenders until arrangements can be made for sending them to borstal schools ;

(f) the transfer of adolescent offenders from a prison to a borstal school by the Inspector General;

(g) the form of, and the conditions under which, licences may be granted ;

(h) the control and management of borstal schools ;

(i) the matters subject to which information may be called for from the Superintendent and the records of the school may be examined by the members of the visiting committee ;

(j) the powers and duties of probation officers under this Act.

3. All rules made under this Act shall be laid for not less than seven days before the Legislative Assembly as soon as may be after they are made, and shall be subject to such modifications as the Legislative Assembly may make during the session in which they are so laid or the session immediately following.

30. *Repeal.*—The Madras Borstal Schools Act, 1925 (Act V of 1926) as in force in the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956) and the Travancore Borstal Schools Act, 1120 (Act XXXI of 1120), are hereby repealed.

STATEMENT OF OBJECTS AND REASONS

The only borstal school in this State is situated at Cannanore and it is governed by the provisions of the Madras Borstal Schools Act, 1925 and the rules thereunder. There was no borstal school in the former State of Travancore-Cochin. Though there was a Borstal Schools Act in the erstwhile Travancore State, no borstal school was established in that State. The provisions of the Madras Borstal Schools Act, 1925, can be applied only in the Malabar area and therefore the whole Kerala State cannot have the benefit of the borstal school at Cannanore. It is therefore considered necessary to have a new Act applicable to the whole State. The Bill seeks to achieve the above object. The Bill is on the lines of the Madras Borstal Schools Act, 1925.

FINANCIAL MEMORANDUM

Clause 11 of the Bill provides that every adolescent offender directed by a court to be sent to a borstal school shall be sent to such borstal school as the Government may appoint. The detention of adolescents in the school involves expenditure for their maintenance. The total expenditure will depend upon the number of inmates etc.. The actual expenditure cannot be specified before hand. There is no intention to start any fresh Borstal school.

Another item of expenditure is for the conveyance of the adolescent offenders from the courts of conviction to the borstal school. This too cannot be counted as a fixed item. It will vary according to the number of offenders committed and the distance from the courts to the borstal school.

Fifty per cent of the recurring expenditure on account of the borstal school will be met by the Government of India during the Second Five Year Plan period.

P. T. Chacko.